



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

09/04/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment
DLCD File Number 004-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, September 19, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Debra Martzahn, City of Lincoln City
Gordon Howard, DLCD Urban Planning Specialist
Patrick Wingard, DLCD Regional Representative

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FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	☐ In person ☐ electronic ☐ mailed
	DEPT OF
	AUG 30 2012
	LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: **City of Lincoln City**Local file number: **ZOA 2012-03**Date of Adoption: **8/27/2012**Date Mailed: **8/29/2012**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: **7/3/2012**☐ Comprehensive Plan Text Amendment☐ Comprehensive Plan Map Amendment☒ Land Use Regulation Amendment☐ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amends Chapter 17.16 (R-1) zone by clarifying requirements for a garage setback. Allows upper stories to cantilever into the garage setback, where currently the 20-foot setback must be observed from the ground up.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **n/a**

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☒	☐	☒	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ NoDLCD file No. 004-12 (19406) [17152]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Debra Martzahn**

Phone: (541) 996-1228 Extension:

Address: **PO Box 50**

Fax Number: **541-996-1284**

City: **Lincoln City**

Zip: **97367-**

E-mail Address: **dmartzahn@lincolncity.org**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

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The City Council finds:

- A. The proposed amendment to the Zoning Ordinance Chapter 17.16.070 is in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals, as addressed in attached Exhibit "A."
- B. The amendment process is in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements. The City duly notified the Oregon Department of Land Conservation and Development of its consideration of the proposed amendment.
- C. The Planning Commission, on August 7, 2012 considered the proposed amendment to this ordinance, and after a public hearing, unanimously voted to forward it, as revised, to the City Council with a recommendation to adopt.
- E. The City Council held a public hearing on the proposed amendment on August 13, 2012, at which time the City Council requested staff to prepare an ordinance for adoption.
- F. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendment.

The City Council of Lincoln City ordains as follows:

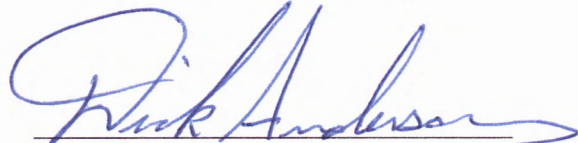
Section 1. Lincoln City Municipal Code Chapter is amended in part by repealing footnote number three to the table in §17.16.070, and replacing it with the following text:

(3) The front and street side yards shall be increased to a minimum of 20 feet in front of a garage/carport and/or driveway entrance to a garage/carport. The increase in setback shall not apply to portions of the dwelling that are below or to the side of the garage/carport or driveway entrance. The increase in setback shall not apply to any portion of the dwelling above the garage/carport that is cantilevered (i.e., supported only by the wall of the structure from which it projects), provided the lowest point of the cantilever is a minimum of seven feet above grade. On corner lots, the clear-vision area requirement of LCMC [17.52.060](#) and [17.52.070](#) shall apply.

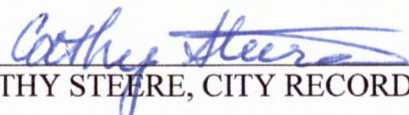
Section 2. The City Council delegates to the City Recorder the authority to make any required corrections due to scrivener's errors, including but not limited to cross-references, and to make such changes prior to codifying this ordinance.

1 **Section 3.** In the event that any provision of this ordinance is determined by a court of
2 competent jurisdiction to be invalid or unenforceable, such invalid provision shall be severed
3 and the remaining provisions of the ordinance that have not been held invalid or
4 unenforceable shall continue to be valid and enforceable to the fullest extent permitted by
5 law.

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7 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 27th day of
8 August, 2012.

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11 
12 DICK ANDERSON, MAYOR
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14 ATTEST:

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17 CATHY STEERE, CITY RECORDER
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ORDINANCE 2012-07
EXHIBIT A

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

“To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

All documents relating to this proposal were made available for public review and purchase. Staff was available to interpret and explain the technical information. All affected property owners were noticed regarding the public hearings on the proposed zoning ordinance amendments and hearing notices were published in the local paper in accordance with notice requirements. The amendment is consistent with Goal 1.

(2) Goal 2: Land Use Planning

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. The City Council considers amendment to Chapter 17.16.070 of the Lincoln City Zoning Ordinance in accordance with the process and based on the criteria provided in the Municipal Code.

(3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

The area affected by the proposed zoning ordinance amendments is located within the city’s urban growth boundary, designated and zoned for urban development. No agricultural lands will be affected by the amendment. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

“To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land

consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed zoning ordinance amendment is located within the city’s urban growth boundary, and does not include any designated forest lands; therefore, Goal 4 is not applicable.

(5) Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

“To protect natural resources and conserve scenic and historic areas and open spaces.”

The amendment affects only properties within the R-1 Residential zone. It does not affect any areas currently zoned Open Space or Park. It does not include any property listed on the National Register of Historic Places. The areas affected by the amendment do not include sites designated as significant aesthetic resources. Goal 5 is not applicable.

(6) Goal 6: Air, Water and Land Resources Quality

“To maintain and improve the quality of the air, water and land resources of the state.”

The proposed zoning amendment has no anticipated affect on the air, water and land resources of the state; therefore, Goal 6 is not applicable.

(7) Goal 7: Areas Subject to Natural Disasters and Hazards

“To protect people and property from natural hazards.”

These amendment does not authorize any development inconsistent with the city’s natural hazard standards; therefore, it is consistent with Goal 7.

(8) Goal 8: Recreational Needs

“To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The proposed amendment has no affect on Goal 8; therefore, the goal is not applicable.

(9) Goal 9: Economic Development

“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The proposed amendment offers flexibility in housing design without compromising aesthetics; therefore, the amendment is consistent with Goal 9.

(10) Goal 10: Housing

“To provide for the housing needs of citizens of the state.”

This amendment offers additional flexibility in residential design and construction. The amendment does not impact housing availability; therefore, the amendment is consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

The proposed amendment does not impact existing or future city water and sewer infrastructure or treatment facilities; therefore, Goal 11 is not applicable.

(12) Goal 12: Transportation

“To provide and encourage a safe, convenient and economic transportation system.”

The amendment allows flexibility, yet maintains the 20-foot setback in front of garages and carports to accommodate vehicles parked outside the garage without encroaching into the street right-of-way. Therefore, it is consistent with Goal 12.

(13) Goal 13: Energy Conservation

“To conserve energy.”

The amendment will have little or no effect on energy conservation; therefore, it is consistent with Goal 13.

(14) Goal 14: Urbanization

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The amendment allows minimum setbacks for all living areas of a dwelling yet maintains greater setback for garages and carports, which could result in more intense use of property. Use of cantilever on upper stories could enhance curb appeal and urban character. Therefore, the amendment is consistent with Goal 14.

(15) Goal 15: Willamette River Greenway

“To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The affected area is not located within the Willamette River Greenway; therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

“To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The amendment will not affect estuarine resources; therefore, it is consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The city’s coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The coastal shorelands include residential areas affected by this amendment; however, the amendment will not increase hazard to life and property or adversely affect coastal shorelands, and therefore is consistent with Goal 17.

(18) Goal 18: Beaches & Dunes

“To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed amendment does not apply to properties within a designated beach or active dune area; therefore, Goal 18 is not applicable.

(19) Goal 19: Ocean Resources

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

The areas affected by this amendment are solely on the dry land areas of the city. This amendment does not allow greater lot coverage or pervious surface and does not affect the near shore ocean and continental shelf. Therefore, the amendment is consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during their preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions and in conformance with this goal.

(2) Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The City has developed a citizen involvement program, including a public hearing process with notice to the public and property owners, and review of the amendment by the Planning Commission (a citizen board) and the City Council (a citizen board), all of which establishes conformance with this goal.

(3) Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facilities and services, which compliment the area and serve as a framework for urban and rural development.”

Public services and utilities generally are in place already in the areas affected by the commercial design standards. The proposed amendment maintains the 20-foot setback in front of garages and carports to accommodate off-street parking that does not affect the availability or arrangement of public services and utilities adversely. The goal is satisfied.

(4) Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The amendment allows minimum setbacks for all living areas of a dwelling yet maintains greater setback for garages and carports. This arrangement enhances curb appeal and an urban character, satisfying this goal.

(5) Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

The area affected by the R-1, Residential standards includes properties subject to natural hazards. The amendment does not authorize development inconsistent with the city’s standards to protect persons and property from potential hazards. This goal is satisfied.

(6) Housing Goal

“To provide for the housing needs of all citizens.”

The amendment does not affect the availability of adequate numbers of housing units in price ranges and rent levels commensurate with the local area. The amendment allows flexibility in housing design and construction that possibly could provide additional living space. Therefore, the amendment is consistent with the housing goal.

(7) Economy Goal

“To support the tourist industry and achieve a degree of diversity in the community, which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”

This amendment allows flexibility that could result in more interesting and attractive residential design and appeal to tourists and new residents. The amendment, therefore, meets the goal.

(8) Aesthetic Goal

“To develop a livable and pleasing city which enhances man’s activities while protecting the exceptional aesthetic quality of the area.”

The amendment offer flexibility in housing design and construction consistent with this goal.

(9) Transportation Goal

“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”

The proposed amendment does not impact the existing or future transportation system. The amendment maintains the 20-foot setback in front of garage doors and carports, providing adequate space for parked vehicles without encroaching into the right-of-way. The amendment, therefore, is consistent with this goal.

(10) Energy Goal

“To conserve energy.”

The amendment is not likely to impact energy conservation. This goal is satisfied.

(11) Overall Environmental Goal

“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”

The amendment allows cantilevers over driveways, which in most cases are impervious. The amendment does not increase allowable building coverage or impervious surface coverage; consequently, the amendment is unlikely to impact the natural environment. The amendment, therefore, is consistent with this goal.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

“To conserve, to protect, to enhance the coastal resources of the city.”

The city’s coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The coastal shorelands include residential areas affected by this amendment; however, the amendment does not increase allowable building coverage or impervious surface coverage, and consequently is unlikely to impact coastal shorelands. The amendment, therefore, is consistent with this goal.

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CITY

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LAND CONSERVATION
AND DEVELOPMENT

ATTN: Plan Amendment Specialist
Dept. of Land Conservation/Develop.
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540